

Department of Justice

§ 104.2

PART 104—SEPTEMBER 11TH VICTIM COMPENSATION FUND

Subpart A—General; Eligibility

Sec.

104.1 Purpose.

104.2 Eligibility definitions and requirements.

104.3 Other definitions.

104.4 Personal Representative.

104.5 Foreign claims.

104.6 Amendments to this part.

Subpart B—Filing for Compensation

104.21 Presumptively covered conditions.

104.22 Filing for compensation.

Subpart C—Claim Intake, Assistance, and Review Procedures

104.31 Procedure for claims evaluation.

104.32 Eligibility review.

104.33 Hearing.

104.34 Publication of awards.

104.35 Claims deemed abandoned by claimants.

Subpart D—Amount of Compensation for Eligible Claimants

104.41 Amount of compensation.

104.42 Applicable state law.

104.43 Determination of presumed economic loss for decedents.

104.44 Determination of presumed non-economic losses for decedents.

104.45 Determination of presumed economic loss for claimants who suffered physical harm.

104.46 Determination of presumed non-economic losses for claimants who suffered physical harm.

104.47 Collateral sources.

Subpart E—Payment of Claims

104.51 Payments to eligible individuals.

104.52 Distribution of award to decedent's beneficiaries.

Subpart F—Limitations

104.61 Limitation on civil actions.

104.62 Time limit on filing claims.

104.63 Subrogation.

Subpart G—Measures To Protect the Integrity of the Compensation Program

104.71 Procedures to prevent and detect fraud.

Subpart H—Attorney Fees

104.81 Limitation on attorney fees.

AUTHORITY: Title IV of Pub. L. 107-42, 115 Stat. 230, 49 U.S.C. 40101 note; Title II of Pub. L. 111-347, 124 Stat. 3623.

SOURCE: 76 FR 54120, Aug. 31, 2011, unless otherwise noted.

Subpart A—General; Eligibility

§ 104.1 Purpose.

This part implements the provisions of the September 11th Victim Compensation Fund of 2001, Title IV of Public Law 107-42, 115 Stat. 230 (Air Transportation Safety and System Stabilization Act), as amended by the James Zadroga 9/11 Health and Compensation Act of 2010, Title II of Public Law 111-347, to provide compensation to eligible individuals who were physically injured as a result of the terrorist-related aircraft crashes of September 11, 2001, or debris removal during the immediate aftermath of those crashes, and to the “personal representatives” of those who were killed as a result of the crashes. All compensation provided through the Fund will be on account of personal physical injuries or death.

§ 104.2 Eligibility definitions and requirements.

(a) *Eligible claimants.* The term eligible claimants means:

(1) Individuals present at a 9/11 crash site at the time of or in the immediate aftermath of the terrorist-related aircraft crashes and who suffered physical harm, as defined herein, as a direct result of the crashes or debris removal;

(2) The Personal Representatives of deceased individuals aboard American Airlines flights 11 or 77 and United Airlines flights 93 or 175; and

(3) The Personal Representatives of individuals who were present at a 9/11 crash site at the time of or in the immediate aftermath of the crashes and who died as a direct result of the terrorist-related aircraft crash.

(4) The term eligible claimants does not include any individual or representative of an individual who is identified to have been a participant or conspirator in the terrorist-related crashes of September 11.

(b) *Immediate aftermath.* The term immediate aftermath means any period beginning with the terrorist-related

§ 104.3

aircraft crashes of September 11, 2001, and ending on May 30, 2002.

(c) *Physical harm.* (1) The term physical harm shall mean a physical injury to the body that was treated by a medical professional within a reasonable time from the date of discovering such harm; and

(2) The physical injury must be verified by medical records created by or at the direction of the medical professional who provided the medical care contemporaneously with the care.

(d) *Personal Representative.* The term Personal Representative shall mean the person determined to be the Personal Representative under §104.4 of this part.

(e) *WTC Health Program.* The term WTC Health Program means the World Trade Center Health Program established by Title I of Public Law 111-347 (codified at Title XXXIII of the Public Health Service Act, 42 U.S.C. 300mm through 300mm-61).

(f) *WTC-related health condition.* The term WTC-related health condition means those health conditions identified as WTC-related by Title I of Public Law 111-347 and by regulations implementing that Title.

(g) *9/11 crash site.* The term 9/11 crash site means:

(1) The World Trade Center site, Pentagon site, and Shanksville, Pennsylvania site; or

(2) The buildings or portions of buildings that were destroyed as a result of the terrorist-related airplane crashes of September 11, 2001; or

(3) The area in Manhattan south of the line that runs along Canal Street from the Hudson River to the intersection of Canal Street and East Broadway, north on East Broadway to Clinton Street, and east on Clinton Street to the East River; or

(4) Any other area contiguous to the crash sites that the Special Master determines was sufficiently close to the site that there was a demonstrable risk of physical harm resulting from the impact of the aircraft or any subsequent fire, explosions, or building collapses (including the immediate area in which the impact occurred, fire occurred, portions of buildings fell, or debris fell upon and injured individuals); or

28 CFR Ch. I (7-1-12 Edition)

(5) Any area related to, or along, routes of debris removal, such as barges and Fresh Kills.

§ 104.3 Other definitions.

(a) *Beneficiary.* The term beneficiary shall mean a person to whom the Personal Representative shall distribute all or part of the award under §104.52 of this part.

(b) *Dependents.* The Special Master shall identify as dependents those persons so identified by the victim on his or her Federal tax return for the year prior to the year of the victim's death (or those persons who legally could have been identified by the victim on his or her Federal tax return for the year prior to the year of the victim's death) unless:

(1) The claimant demonstrates that a minor child of the victim was born or adopted on or after January 1 of the year of the victim's death;

(2) Another person became a dependent in accordance with then-applicable law on or after January 1 of the year of the victim's death; or

(3) The victim was not required by law to file a Federal income tax return for the year prior to the year of the victim's death.

(c) *Spouse.* The Special Master shall identify as the spouse of a victim the person reported as spouse on the victim's Federal tax return for the year prior to the year of the victim's death (or the person who legally could have been identified by the victim on his or her Federal tax return for the year prior to the year of the victim's death) unless:

(1) The victim was married or divorced in accordance with applicable state law on or after January 1 of the year of the victim's death; or

(2) The victim was not required by law to file a Federal income tax return for the year prior to the year of the victim's death.

(d) *The Act.* The Act, as used in this part, shall mean Public Law 107-42, 115 Stat. 230 ("Air Transportation Safety and System Stabilization Act"), 49 U.S.C. 40101 note, as amended by the James Zadroga 9/11 Health and Compensation Act of 2010, Title II of Public Law 111-347.